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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

10 CR 1060 (RPP)

5 GERALDO MARTINEZ,

6 Defendant.

7 -----x

8 New York, N.Y.
9 September 24, 2014
11:15 a.m.

10 Before:

11 HON. ROBERT P. PATTERSON, JR.,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 DREW JOHNSON SKINNER

KATE REILLY

Assistant United States Attorneys

18 JOSHUA L. DRATEL

19 Attorney for Defendant

20 ALSO PRESENT: Steven Vargas, U.S. Probation

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1 THE DEPUTY CLERK: United States v. Geraldo Martinez.
2 Is the government ready in this matter?

3 MR. SKINNER: Yes. Good morning. Drew Johnson
4 Skinner and Kate Reilly. With us is U.S. Probation Officer
5 Steven Vargas.

6 MR. DRATEL: Joshua Dratel for Mr. Martinez.

7 THE COURT: Good morning.

8 THE DEFENDANT: Good morning, sir.

9 THE COURT: Well, what is the government's position
10 here?

11 MR. SKINNER: Your Honor, we're here on specifications
12 that have been issued by the probation office. There is
13 additional information that we've learned since the violation
14 report that I believe was handed up to your Honor.

15 THE COURT: I see it.

16 MR. SKINNER: There was a recent arrest on the state
17 charge. The defendant was arrested on a warrant on Friday and
18 presented before Judge Pitman where he was detained.

19 THE COURT: Before judge?

20 MR. SKINNER: Before Magistrate Judge Pitman.

21 THE COURT: All right.

22 MR. SKINNER: We'd like to adjourn this matter until
23 the middle of October to allow defense counsel time to consult
24 with his client.

25 THE COURT: All right.

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1 MR. SKINNER: It is my understanding --

2 THE COURT: He's detained.

3 MR. SKINNER: He is currently detained. The
4 government would seek that he continue to be detained until the
5 next date.

6 MR. DRATEL: Your Honor, Mr. Martinez has been in
7 state custody I think since July 20 on a state arrest, which is
8 the subject of what the Court has from the subsequent
9 information. Since that time, Mr. Martinez has been in an
10 inpatient program at Rikers Island, just came to the federal
11 system and so now he's here.

12 THE COURT: Is he at the MCC?

13 THE DEFENDANT: MCC, sir.

14 MR. DRATEL: Obviously, the ultimate goal would be to
15 get Mr. Martinez in an inpatient program obviously outside.
16 But in the interim, we believe that he can be at liberty
17 essentially until the next court appearance which we could
18 schedule for mid October. Hopefully give us time to get the
19 placement through probation that would enable him to get in an
20 intensive inpatient program.

21 THE COURT: Well, I think he needs to get an anger
22 management program at MCC. Am I right?

23 MR. DRATEL: I don't know, your Honor. So --

24 THE COURT: I may be wrong but I think we have one at
25 MCC. MDC is a different matter.

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1 MR. DRATEL: I think the -- I've spoken to Officer
2 Mulcahy who has been supervising Mr. Martinez. And he talked
3 about the intensive inpatient program for the drug problem,
4 what we believe underlies the other conduct, and try to get at
5 the root of it obviously. So that's, from our perspective, the
6 goal. And in the interim I'm asking for Mr. Martinez's
7 release.

8 THE COURT: I don't want to release him in view of
9 this record.

10 MR. DRATEL: I'm sorry, your Honor?

11 THE COURT: The details of this record are -- although
12 they don't give the date for the first offense, the TPO, the
13 second offense is August 13. And I gather he's been arrested
14 on these charges. Am I right?

15 MR. SKINNER: Yes, your Honor, that's the government's
16 understanding. The government's understanding is the first
17 incident was on July 20 of this year. The second incident was
18 on August 14. And then he was arrested at that time and placed
19 in state custody.

20 THE COURT: It may be that it is connected with drug
21 use. But, it could be alcohol.

22 MR. DRATEL: Your Honor, what we'd like to do is put
23 it on for mid October so we can try to work with probation.
24 See if we can get something, talk to the government, see if we
25 can get a resolution so Mr. Martinez can get proper treatment

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1 and the proper place, obviously as the Court sees fit as well.
2 But, I think that would be the first step.

3 THE COURT: I'll hear from the defendant. Does the
4 defendant want to say anything?

5 MR. DRATEL: I don't know.

6 THE DEFENDANT: No.

7 MR. SKINNER: Your Honor, if you would permit it, the
8 probation officer would like to add something.

9 MR. VARGAS: Good morning, your Honor. Just to
10 clarify, I briefed the case with Officer Mulcahy. While the
11 ultimate goal is to have Mr. Martinez enter an inpatient
12 program, the probation department does feel that some jail time
13 is appropriate just based on the history of his non-compliance
14 on supervised release and disregard for conditions of
15 supervision. And the risk he poses obviously to the
16 girlfriend. That period to be determined by the Court.
17 However, the ultimate goal, if your Honor imposes a jail
18 sentence, is he enter immediately an inpatient program upon his
19 release.

20 THE COURT: A drug program.

21 MR. VARGAS: Correct, your Honor. Whether he will
22 receive anger management and counseling --

23 THE COURT: We can arrange that.

24 MR. VARGAS: But just to specify, long term, meaning
25 nothing less than six months.

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1 THE COURT: He's not ready for sentence yet.

2 MR. VARGAS: No, correct. That's just the views of
3 Mr. Mulcahy. Just representing.

4 MR. DRATEL: Your Honor, that's getting ahead of
5 ourselves in terms of an admit disposition. I have counter
6 arguments with respect to the utility of a jail sentence before
7 you start the treatment program. Delaying the treatment
8 program delays the ultimate objective. We can argue all that
9 at the appropriate time.

10 THE COURT: Is it the government's thought he should
11 be held pending the disposition of these violations of his
12 conditions of release?

13 MR. SKINNER: Yes, your Honor. The defendant should
14 be held because he poses a flight risk and a danger to the
15 community.

16 THE COURT: He hasn't pled guilty to them.

17 MR. SKINNER: Correct. Correct.

18 THE COURT: So, it would be pending.

19 MR. SKINNER: Yes. Pending the next scheduled
20 conference in mid October.

21 THE COURT: On what grounds?

22 MR. SKINNER: Both because he's a flight risk and a
23 danger to the community. The defendant is a flight risk
24 because he has shown that he can't comply with scheduled
25 appearances. He didn't contact the probation office. The

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1 probation office didn't know where to find him. He was only
2 arrested because he was arrested on the state charges. He
3 faces serious charges here, up to two years' imprisonment.
4 He's also a danger to the community, because as reflected by
5 the new assault charges, he's a PCP user, the government
6 understands, which can be a particularly danger drug. The PSR
7 and the underlying offense reveals a long criminal history.

8 THE COURT: What dug did you say?

9 MR. SKINNER: PCP. So for all those reasons, the
10 government believes the defendant should be detained until the
11 next appearance.

12 THE COURT: All right. What date do you want for the
13 next appearance?

14 MR. DRATEL: I guess sometime towards the end of the
15 week of the 13th of October would be good.

16 THE DEPUTY CLERK: 16th at 12.

17 MR. DRATEL: Yes.

18 THE DEPUTY CLERK: 12 noon.

19 MR. SKINNER: Can I just have one moment, please.
20 Officer Mulcahy who is on this case will be out of the office
21 from the 15th to the 17th of October, so if we can do it after
22 that date, that would be best.

23 THE DEPUTY CLERK: October 22nd at 10, Judge. That's
24 a Wednesday.

25 THE COURT: I have medical treatments. They're early

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1 on other dates.

2 THE DEPUTY CLERK: 22nd at 10.

3 MR. SKINNER: Fine with the government.

4 MR. DRATEL: Thank you, your Honor.

5 THE COURT: And the defendant will be held in view of
6 the grounds the government recited for until that date. Those
7 grounds being his non-compliance with his special conditions of
8 release and his conduct posing a danger to other persons during
9 that period.

10 You have to do something with your anger management
11 problems, Mr. Martinez. One of the problems of living in some
12 areas of this town is that you're brought up in an atmosphere
13 where a lot of people grow up as sort of "I'm my own man. No
14 one's going to show me. No one's going to give me orders. I'm
15 my own man. I can do whatever I want." And the problem with
16 that is, it isn't true. And the way the community you're
17 brought up in sort of accepts that results in these kind of
18 incidents. Because you're not. You can't do to other people
19 whatever the hell you want to do. You can't lose your temper
20 with them that way.

21 If you're in the MCC, there are programs there, and
22 you ought to utilize this period to take an anger management
23 program. They also have drug programs, but I don't know that
24 they run at the same time. My experience is the anger
25 management program at the MCC does work on some people. That's

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1 all I can tell you. All right? See you then.

2 MR. SKINNER: Thank you, your Honor.

3 MR. DRATEL: Thank you, your Honor.

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